



## GREENWOOD COMMON COUNCIL NOVEMBER 15, 2004 MINUTES

Mayor Charles Henderson called the meeting to order at 7:00 p.m.

The audience recited the Pledge of Allegiance in unison, after which the Rev. Dane Sinn offered the invocation.

<b>PRESENT:</b>	Council members Bruce Armstrong, Ron Bates, Bill Bless, John Gibson, Keith Hardin, Jessie Reed; Mayor Henderson; Clerk-Treasurer Jeannine Myers and City Attorney Shawna Koons-Davis. Councilman Ron Deer was not in attendance.
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Mr. Bates moved to approve the minutes of the regular session of November 4<sup>th</sup>, with second by Ms. Reed. Vote: Ayes.

Ms. Koons-Davis had distributed her litigation report. On item #2 for the Indiana Land Company. Counsel said she did not believe they had filed a petition to transfer the case to the Supreme Court, so they are probably finished.

For the Plan Commission, Mr. Armstrong reported that the last meeting was concerned primarily with the Wal-Mart at County Line Road and Emerson Avenue. Because it is in the overlay district, the Commission can ask for certain commitments to upgrade the project, as Mr. Armstrong pointed out. This would be an entirely brick product, not the standard concrete block with the blue and gray. Mr. Armstrong showed drawings of the different stores in the strip mall.

Ms. Reed reported that the tax abatement committee met and is fine tuning their recommendations.

Mr. Gibson reported that the Solid Waste Management Board signed an agreement for more space in their building and is still looking for a location of a dumpster on the east side of the county.

**ORDINANCE No. 04-46** – An Ordinance Annexing Certain Territory Within the Area of Extended Jurisdiction of the City of Greenwood, Indiana, Placing the Same Within the Corporate Boundaries Thereof and Making the Same a Part of the City of Greenwood and Redefining the Corporate Boundaries of the City of Greenwood, Indiana, Approximately 22.43 Acres Located on the East Side of Honey Creek Road Immediately South of Alden Place Subdivision (commonly known as the Bright Farm Property). Mr. Bless moved to pass Ordinance No. 04-46 through first reading. Second by Mr. Gibson. Mayor Henderson opened the public hearing for comments. As no one spoke, the public hearing was closed. The rezoning request was a couple of months ago, and Ms. Koons-Davis anticipated a formal request to withdraw this petition. It did not come, she noted; they are not interested in going forward. Mr. Armstrong moved to amend the ordinance in the fourth WHEREAS clause to remove everything after the word “jurisdiction”. Second by Mr. Bates. There was discussion on keeping the zoning R-2, but this R-2 is in the area of extended jurisdiction. Counsel reiterated that it is her understanding there is a petition being filed before the Plan Commission to start the annexation process over again. Action must be taken on this petition, however, before a new petition can be filed. Planning Director Ed Ferguson confirmed that there was another petition filed Friday with R-2 zoning. There is another annexation petition for approximately 80 acres east of this parcel. This will be a joint project – a combined subdivision with an entrance off of Honey Creek Road. A request in writing to withdraw the motion was never received. Mr. Armstrong withdrew his motion for amendment and Mr. Bates withdrew his second. Vote: Nays. **FAILS FIRST READING.**

**ORDINANCE No. 04-49** – An Ordinance Annexing Certain Territory Within the Area of Extended Jurisdiction of the City of Greenwood, Indiana, Placing the Same Within the Corporate Boundaries Thereof and Making the Same a Part of the City of Greenwood and Redefining the Corporate Boundaries of the City of Greenwood, Indiana, Approximately 82.27 Acres Located on the East Side of Honey Creek

Road; ¼ Mile South of Cutsinger Road and ¼ Mile North of Stones Crossing Road (commonly known as the Bertha E. Bertsch Revocable Trust Property). **POSTPONED UNTIL DECEMBER 20, 2004 FOR FIRST READING AND PUBLIC HEARING.**

**ORDINANCE No. 04-50** – An Ordinance to Amend the Official Zoning Map Adopted by Reference in Zoning Ordinance No. 82-1 Entitled “An Ordinance Establishing Comprehensive Zoning Regulations for the City of Greenwood, Indiana, and Providing for the Administration, Enforcement, and Amendment Thereof, In Accordance With the Provisions of I.C. 36-7-4-600 et seq. Laws of Indiana as Amended, and For the Repeal of All Ordinances in Conflict Herewith” (Proposed Rezoning of approximately 82.27 acres located on the east side of Honey Creek Road, ¼ mile south of Cutsinger Road and ¼ mile north of Stones Crossing Road (commonly known as the Bertha E. Bertsch Revocable Trust Property)). **POSTPONED UNTIL DECEMBER 20, 2004 FOR FIRST READING.**

**ORDINANCE No. 04-51** – An Ordinance Annexing Certain Territory Within the Area of Extended Jurisdiction of the City of Greenwood, Indiana, Placing the Same Within the Corporate Boundaries Thereof and Making the Same a Part of the City of Greenwood and Redefining the Corporate Boundaries of the City of Greenwood, Indiana, Approximately 82.3 Acres Located Approximately ¼ Mile South of Worthsville Road and West of Graham Road (commonly known as the Republic Development, LLC Property). **POSTPONED UNTIL DECEMBER 20, 2004 FOR FIRST READING AND PUBLIC HEARING.**

**ORDINANCE No. 04-52** – An Ordinance to Amend the Official Zoning Map Adopted by Reference in Zoning Ordinance No. 82-1 Entitled “An Ordinance Establishing Comprehensive Zoning Regulations For the City of Greenwood, Indiana, and Providing For the Administration, Enforcement, and Amendment Thereof, In Accordance With the Provisions of I.C. 36-7-4-600 et seq. Laws of Indiana As Amended, and For the Repeal of All Ordinances In Conflict Herewith” (Proposed Rezoning of approximately 82.3 acres located approximately ¼ mile south of Worthsville Road and west of Graham Road, commonly known as the Republic Development, LLC Property). Mr. Bates moved to pass Ordinance No. 04-52 on first reading. Second by Mr. Gibson. Attorney Chris Long represented Republic Development Corporation and Bainbridge Southlake, LLC to discuss the request to rezone from R-2 to R-2A. He gave a brief history of rezoning for Bainbridge and how the commitments that were developed. The maximum number of units would not exceed 216, which is 2.6 units per acre, and Mr. Long detailed other commitments. Larry Moon of Republic Development discussed improvements to Worthsville Road and said this development would most likely be with Davis Homes. The developer feels that R-2A is compatible with the lowest density of the balance of the project and chose to ask for this rezoning and make commitments to raise the bar. There was some discussion relating to the neighboring landowner's (Joe Corbin) objections to having the land developed. In response to Ms. Reed, the City Attorney stated that the only time the Council could send a petition back to the Plan Commission is if we are repealing an entire zoning code and replacing it. Once the petition is certified, she added, the Council has to act within 90 days. If the recommendation is favorable and the Council fails to act, it is automatically zoned as recommended. If the recommendation is unfavorable and Council does not act, the petition is defeated. Ms. Reed expressed her concern on the minimum lot sizes. The small difference in density between existing (2.5 units per acre) and proposed zoning (2.62 units per acre) means 10 units in the 216-unit development, noted Mr. Armstrong. Vote: Ayes – Bates, Bless, Gibson; Nays – Hardin, Reed, Armstrong. The Mayor voted Aye. **PASSED FIRST READING.**

**RESOLUTION No. 04-28** – A Resolution Establishing Holidays For Employees of the City of Greenwood for the Year 2005. Mr. Bates moved to pass Resolution No. 04-28 through first reading. Second by Mr. Gibson. Vote: Ayes. **PASSED FIRST READING.**

**RESOLUTION No. 04-26** – A Resolution of the Greenwood Common Council to Adopt the Written Fiscal Plan for the Annexation of Certain Territory Within the Area of Extended Jurisdiction of the City of Greenwood, Indiana, Placing the Same Within the Corporate Boundaries Thereof and Making the Same a Part of the City of Greenwood and Redefining the Corporate Boundaries of the City of Greenwood, Indiana, approximately 82.27 acres located on the east side of Honey Creek Road; ¼ mile south of Cutsinger Road and ¼ mile north of Stones Crossing Road (commonly known as the Bertha E. Bertsch Revocable Trust Property), Referencing Annexation Ordinance No. 04-49. Mr. Hardin moved to pass Resolution No. 04-26 on second reading. Second by Mr. Bless. Vote: Ayes. **PASSED SECOND READING.**

**RESOLUTION No. 04-27** – A Resolution of the Greenwood Common Council to Adopt the Written Fiscal Plan for the Annexation of Certain Territory Within the Area of Extended Jurisdiction of the City of Greenwood, Indiana, Placing the Same Within the Corporate Boundaries Thereof and Making the Same a

Part of the City of Greenwood and Redefining the Corporate Boundaries of the City of Greenwood, Indiana, approximately 82.3 acres located approximately ¼ mile south of Worthsville Road and west of Graham Road (commonly known as the Republic Development, LLC Property), Referencing Annexation Ordinance No. 04-51. Mr. Hardin moved to pass Resolution No. 04-27 through second reading. Second by Mr. Armstrong. Vote: Ayes. **PASSED SECOND READING.**

**RESOLUTION No. 04-29** – A Resolution Confirming Resolution No. 04-25 The Declaration of Certain Real Property Improvements for Property Tax Abatement (Nachi Technology, Inc.). Mayor Henderson opened the public hearing for comments for or against. Jay Campbell, Operations Manager for Nachi America, told the Council Nachi is hoping to build a new 57,000 square foot warehouse facility for this addition and a 9,200 square foot office facility next to their sister company. Chris Kennedy of Johnson County Development Corporation assured the Council they are wholeheartedly in support of this project, as it is bringing significant jobs to the area, with well above average pay. As no one else spoke, the public hearing was closed. Ms. Reed moved to confirm Resolution No. 04-25. Second by Mr. Hardin. It was confirmed for Mr. Bates that 10 years is the maximum period for abatement. Ms. Koons-Davis, in response to Mr. Armstrong, described the Hutchinson-Hayes project, where the petitioner left the state, recalling that Dunham Belting bought the property and took over the tax abatement. Mayor Henderson recounted that there is an agreement among neighboring counties not to offer abatement for a company to move out of another community in the region. Marion County knew that Dunham was going to leave the area and did not object to their taking over the abatement. This is an issue, added the Mayor, where the company is already located here and they are expanding. Mr. Campbell confirmed that when they relocated from New Jersey over 8 years ago and began leasing space in Park 100, there was never any intention of staying in that area. The intent was to come to Johnson County. Mr. Long said he had talked with two people from Indianapolis and they have been very understanding of the situation. Vote: Ayes. **ADOPTED.**

**RESOLUTION No. 04-30** – A Resolution Declaring Certain Real Property Improvements For Property Tax Abatement and Setting the Time and Place For a Public Hearing Thereof (United Natural Foods, Inc.). The City Attorney distributed copies of a letter to the Council. She indicated that the Council would need to amend the legal description in the letter on first reading. The petitioner is also committed to finishing those first improvements within one year of approval of the tax abatement, she added, actually by June 1, 2005. Their SB-1 is incorporated into the Resolution. Chris Kennedy again was invited to speak and introduced Lisa N'Chonon, Assistant Corporate Controller for United Natural Foods. She briefly described her company, noting they have experienced unusual growth over the past few years. The company is looking to open a new distribution center in this area to take some of the burden off of the other facilities. By 2007, Ms. N'Chonon indicated, they expect to have about 250 employees, at an average salary of \$35,000 per year. Most jobs will be new, with transfer of some management positions, she noted. **INTRODUCED.** Relating to the request to suspend the rules, Ms. N'Chonon stressed the need to get the building closed in before winter. Ms. Koons-Davis explained that, per Indiana Code, the tax abatement statute can be waived. Greenwood has always interpreted conservatively, she said, and has required two ordinances – a declaratory and a confirmatory – an advertisement and a public hearing. The City Attorney stated that some interpret that statute to say a public hearing is necessary only if you are creating an ERA. If you are doing tax abatement in an existing ERA no hearing is required. She understands that Mr. Kennedy is not only asking for the Council to pass this in one night but to pass it without having to advertise and have a public hearing and do a confirmatory resolution. Mr. Kennedy indicated that was correct. If the Council is inclined to suspend the rules, counsel explained they would have to take out the language in Section 5 that describes the advertisement and public hearing. If the conservative interpretation is followed and this is advertised, this cannot be passed until January 17<sup>th</sup>, said Ms. Koons-Davis. In response to Mr. Armstrong, she again described the process again when there is already an ERA. Counsel stated that she did not think there would be liability if they decided not to have the public hearing. If rules are suspended for first reading and then advertised, second reading would most likely be the second meeting in December. There was again discussion on whether to suspend the rules for first reading or both first and second. Ms. Reed could not think of a reason that the public would need any more information than what has been publicized. The only abatement the petitioner is asking for is for the improvements they are putting in. Mr. Bless moved for suspension of the rules to consider first reading. Second by Mr. Gibson. Vote: Ayes. **RULES SUSPENDED.** Ms. Reed moved to delete Section 5 and amend the legal description in Resolution No. 04-30 to agree with the one submitted by the petitioner on November 11, 2004 (change out Exhibit A). Second by Mr. Hardin. Vote: Ayes. **AMENDED.** Mr. Bates moved to pass Resolution No. 04-30 as amended through first reading. Second by Mr. Hardin. Mr. Armstrong thought it was a win/win situation to grant abatement and have the building closed in and get new jobs. His concern was the effect on taxes on the library and school district. Vote: Ayes. Vote: Ayes. **PASSED FIRST READING AS AMENDED.** Ms. Reed moved to suspend the

rules to consider second reading. Second was by Mr. Armstrong. Vote: Ayes. **RULES SUSPENDED.** Mr. Gibson moved to pass Resolution No. 04-30 through second reading. Second by Mr. Bates. Vote: Ayes. **PASSED SECOND READING.**

**RESOLUTION No. 04-31** – A Resolution Authorizing the Clerk-Treasurer to Transact Business With the Public Employees Retirement Fund Through the Use of Electronic Funds Transfer. **INTRODUCED.**

Under miscellaneous business, Mr. Gibson asked for an update on obtaining the land we need for a turn lane at Main Street and Emerson Avenue. Mayor Henderson indicated that the developers would give the City all the easements we need to make a right turn. Staff is looking to get a cost factor to move the utility equipment to make a normal turn lane with at least a 50-foot radius. They will be bringing this recommendation to the Council hopefully within the next two to three weeks, said the Mayor.

Mr. Hardin pointed out a typographical error in the proposed meeting dates. The year should be changed from 2004 to 2005 in the first line after the heading.

Mr. Armstrong reported that the first phase of the Valle Vista street project will be done at the end of this week; they will work through Saturday, weather permitting, and come back in the spring for the final coat. Mayor Henderson said he had talked with staff about the manholes and the water pipe that extend above the surface. The Mayor said that they have agreed to start doing some curb replacement before spring. Staff estimates 25% of the curbing will need to be replaced.

Mr. Bates had received opinions on both the proposed aquatic center and the proposed Wal-Mart at Smith Valley and State Road 135 that he wanted in the public record. Mr. Armstrong said there were postcards and a drop box for the postcards at the Community Center. He had suggested that they bring them tonight and there seem to be quite a number there.

Mayor Henderson told the Council that the house next door has been secured and winterized and is insured.

Ms. Myers asked if the Council had received the information from Paige Gregory regarding the estimated impact of the excess levy appeal. She has copies. Ms. Gregory is scheduled to be at the next meeting. Mr. Armstrong said he is interested in the rate based on our proposed budget, our assessed valuation and the maximum levy and how much (if) it increases.

Mayor Henderson mentioned a letter from John Crump congratulating the Fire Department on their fine work at the strip mall fire on Main Street.

Mr. Armstrong mentioned that the aquatic center will be brought up again at the first meeting in January.

With no further business, the Mayor wished everyone a Happy Thanksgiving, and adjourned the meeting at 8:20 p.m.